

USC § 2255 MOTION

United States District Court District

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXASName (under which you were convicted): ANWAR L. GAGE Docket or Case No.: 6:18-CR-14-JRG-KNM
Place of confinement: FCC Coleman USP-1 Prisoner No.: 17493-104

MAY - 3 2019

UNITED STATES OF AMERICA

Movant (include name under which convicted)

BY
DEPUTY _____v. ANWAR Lewis GAGEMOTION 1. (a) Name and location of court that entered the judgment of conviction you are challenging: JACK BRADSHAW FEDERAL BUILDING & US COURT HOUSE
300 WILLOW ST
BEAUMONT, TX 77701(b) Criminal docket or case number (if you know): 6:18-CR-14-JRG-KNM2. (a) Date of the judgment of conviction (if you know): 1-29-19(b) Date of sentencing: 1-29-193. Length of sentence: 84 MONTHS4. Nature of crime (all counts): 922(G)(2)FELONY IN POSSESSION
OF A FIREARM

5. (a) What was your plea? (Check one)

(1) Not guilty

☒ (2) Guilty

(3) Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? _____

6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☒ No8. Did you appeal from the judgment of conviction? Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

410cr

1

17493104

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a)(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Y No
e
s

(2) Second petition: Y No
e
s

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: INEFFECTIVE

ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

• COUNSEL DID NOT PRESENT OR USE AFFIDAVITS
IN FAVOR OF MY CASE.

• COUNSEL ADVISED ME NOT TO ALLOCATE OR TRY TO
DEFEND, RAISE OR PRESENT MOTIONS IN DEFENSE
OF MY CASE.

AG 4/25/19 ~~• Counsel referred testimony to the court and~~
~~did not present any evidence or a proper defense.~~

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state: _____

Type of motion or petition: _____
Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application? _____

Yes No

(4) Did you appeal from the denial of your motion, petition, or application? _____

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? _____

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: Actual Innocence

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

COUNSEL FAILED TO PRESENT AFFIDAVIT, IN WHICH
ANOTHER PERSON ADMITTED TO THE ACTUAL CRIME.
I HAVE AN AFFIDAVIT SWORN & CERTIFIED BY THE
ACTUAL PERPETRATOR.

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? _____

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application? _____

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: Plain Error Entered by District Court

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I WAS UNJUSTLY & UNCONSTITUTIONALLY ENHANCED
IN MY CASE FOR A TEXAS "ASSAULT" FAMILY VIOLENCE
WHICH IN PAST CASES IN THE 5TH CIRCUIT HAVE BEEN
FOUND TO NOT BE A CRIME OF VIOLENCE.
THERE WAS NO VIOLENCE OR FORCE IN MY TEXAS
CASE, THEREFORE AN ENHANCEMENT WAS UNJUST.

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND FOUR: Plain Error

Entered by District court

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The District Court Erred by Enhancing my
sentence for my Texas conviction of Aggravated
Assault in the 3rd Degree, which is not regarded
as a crime of violence under the Texas Penal Code.
No Bodily Injury or Affirmative Finding of a Weapon

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

410cr

6

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

410cr

7

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:
- (a) At preliminary hearing: Kenneth Robert Hawk
- (b) At arraignment and plea: Kenneth Robert Hawk
- (c) At trial: N/A
- (d) At sentencing: Kenneth Robert Hawk
- (e) On appeal: N/A
- (f) In any post-conviction proceeding: N/A
- (g) On appeal from any ruling against you in a post-conviction proceeding: _____
16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No
17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No
- (a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____
- (b) Give the date the other sentence was imposed: _____
- (c) Give the length of the other sentence: _____
- (d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No
18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion. *

410cr

8

17493104

Therefore, movant asks that the Court grant the following relief: _____

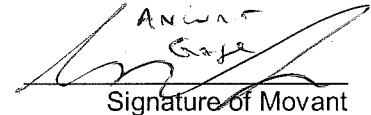
or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on

4-25-19 (month, date, year).

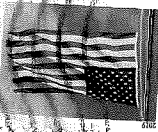
Executed (signed) on 4-25-19 (date).

ANWAR GAGE

Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion. _____

ANWAR GAGE # 17493-104
FCC Coleman USP-1
PO BOX 1082
Coleman, FL 33521

TAMPA, FL 335
COUNTY PETERSBURG FL
24 APR 2010 PM 10:1



US Judge Hartford
Jack Brooks Federal Bldg
P
US Court house
300 willow st
BEAUMONT, TX 77704

77701-229699